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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227
(LJV)

March 5, 2024

TRANSCRIPT EXCERPT - CROSS-EXAMINATION OF MARK FALZONE
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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And

UNITED STATES DEPARTMENT OF JUSTICE
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BY: PARKER ROY MacKAY, ESQ.

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PRESENT:

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* * * * *

(Excerpt commenced at 10:33 a.m.)

(Jury present.)

MARK FALZONE, having been previously duly called
and sworn, continued to testify as follows:

(Direct examination from 9:43 a.m. to 10:33 a.m.)

THE COURT: Cross?

MR. MacKAY: Yes, Your Honor. Thank you.

CROSS-EXAMINATION BY MR. MacKAY:

Q. Good morning, Mr. Falzone.

A. Good morning.

Q. How are you?

A. All right under the circumstances.

Q. All right. So, you've known Ron Serio for well over 30
years, correct?

A. Yes, sir.

Q. He's one of your best friends, correct?

10:34AM 1 A. Yes, he is.

10:34AM 2 Q. You told us that around 2008, you sort of reconnected

10:34AM 3 with him after the Air Force and after school, correct?

10:34AM 4 A. Yes, sir.

10:34AM 5 Q. So 2008 is really the time you link back up with him

10:34AM 6 despite being friends with him for a long time, correct?

10:34AM 7 A. Yes, sir.

10:34AM 8 Q. And that time in 2008, you knew he was dealing marijuana

10:34AM 9 in some capacity, correct?

10:34AM 10 A. Yes.

10:34AM 11 Q. But you weren't involved in his operation at that point

10:34AM 12 in time, correct?

10:34AM 13 A. No, I was not.

10:34AM 14 Q. You didn't know anybody who was around him, assisting him

10:34AM 15 in any sales of marijuana, correct?

10:34AM 16 A. Correct.

10:35AM 17 Q. Okay. Now, for as long as you've known Ron Serio, you've

10:35AM 18 known him to be a drug user, correct?

10:35AM 19 A. Yes.

10:35AM 20 Q. And that's just we can pinpoint on age, we're talking --

10:35AM 21 is that high school or so, and on?

10:35AM 22 A. Yes.

10:35AM 23 Q. Okay. Just to be clear, you've known him from about high

10:35AM 24 school and later?

10:35AM 25 A. I've known him since grammar school.

10:35AM 1 Q. Grammar school and later.

10:35AM 2 A. Yes.

10:35AM 3 Q. And maybe not grammar school, but high school and later,

10:35AM 4 you've seen him use drugs?

10:35AM 5 A. Yes, sir.

10:35AM 6 Q. Continuously from the time you've seen him?

10:35AM 7 A. Yes.

10:35AM 8 Q. You knew him to do marijuana, correct?

10:35AM 9 A. Yes.

10:35AM 10 Q. You knew him to do cocaine, correct?

10:35AM 11 A. Yes.

10:35AM 12 Q. You knew him to do pills, correct?

10:35AM 13 A. Yes.

10:35AM 14 Q. What kind of pills?

10:35AM 15 A. Lortabs. And then from the Lortabs, it went to the

10:35AM 16 OxyContin, to the fentanyl pills.

10:35AM 17 Q. Okay. Did you know him to use heroin as well?

10:35AM 18 A. Yes.

10:35AM 19 Q. Sniff or inject?

10:35AM 20 A. Sniff.

10:35AM 21 Q. Is it fair to say that after you reconnected with him in

10:36AM 22 2008 moving forward, you see his drug use get worse?

10:36AM 23 A. Yes.

10:36AM 24 Q. Okay. How much worse?

10:36AM 25 A. A lot worse.

10:36AM 1 Q. Okay. Can you try to, for that jury, you know, he starts
10:36AM 2 out in 2008. How bad is it at that point?
10:36AM 3 A. Couple Lortabs a day.
10:36AM 4 Q. Okay. And then by the time you reconnect with him in
10:36AM 5 2014, what does his habit look like with Lortabs and other
10:36AM 6 drugs?
10:36AM 7 A. 20 OxyContins a day.
10:36AM 8 Q. In conjunction with other drugs as well?
10:36AM 9 A. Yes. If he couldn't get pills, he would sniff heroin.
10:36AM 10 Q. But if he could get pills, was he doing other drugs on
10:36AM 11 top of the pills that -- on any one day?
10:36AM 12 A. Yes, he would also do coke.
10:36AM 13 Q. Okay. So I'm just trying to give this jury an idea. On
10:36AM 14 any one day when you saw Mr. Serio after 2014, he would
10:36AM 15 definitely be on pills, correct?
10:36AM 16 A. Yes, sir.
10:36AM 17 Q. Likely on marijuana as well, too?
10:36AM 18 A. No.
10:36AM 19 Q. Okay. Cocaine?
10:36AM 20 A. Yes.
10:37AM 21 Q. Heroin, if he couldn't get pills?
10:37AM 22 A. Yes.
10:37AM 23 Q. And did you know Mr. Serio to drink as well, too?
10:37AM 24 A. Negative.
10:37AM 25 Q. Okay. All right. So, is it fair to say that when you

1 see him -- well, let's backtrack to 2008.

2 You said he was doing several Lortabs a day?

3 A. Yes.

4 Q. Okay. Would you -- would you notice he was visibly under
5 the influence of Lortabs at that point in time?

6 A. I couldn't tell visibly. But I just knew because he
7 would take them in front of me, or he would tell me about it.

8 Q. Okay. And when you said you saw him take them in front
9 of you, you're talking about you've seen at least -- let me
10 reword that.

11 How many Lortabs per day in 2008 would you see Mr. Serio
12 take in front of you?

13 A. In front of me? Let's say in an eight-hour day of
14 working with him? Maybe four or five.

15 Q. This is in 2008, correct?

16 A. Yes.

17 Q. And that's just what you saw in front of you, correct?

18 A. Yes.

19 Q. Did you form an opinion on whether he was taking any more
20 beyond those four a day or so that you would see?

21 A. I didn't form an opinion. I didn't care, because I
22 wasn't doing it.

23 Q. Okay. Well, so moving forward, then we get into the 2014
24 time frame and on. Again, are you around him eight hours a
25 day?

10:38AM 1 A. I'm around him a lot, yes.

10:38AM 2 Q. How many Lortabs were you seeing him do at that point in

10:38AM 3 time?

10:38AM 4 A. He was on to OxyContin at that time.

10:38AM 5 Q. How many OxyContin at that time did you see him do?

10:38AM 6 A. I would see him sniff a pill every couple minutes.

10:38AM 7 Q. Okay. And that was what you saw with your own eyes,

10:38AM 8 correct?

10:38AM 9 A. Yes.

10:38AM 10 Q. Okay. Now I think you told us 2014 is about the

10:38AM 11 time frame you become more involved in this marijuana

10:38AM 12 operation, correct?

10:38AM 13 A. Yes.

10:38AM 14 Q. And what spurs that is that is you're going through a

10:38AM 15 foreclosure, correct?

10:38AM 16 A. Yes, sir.

10:38AM 17 Q. Okay. And you eventually learn that this marijuana that

10:39AM 18 Mr. Serio was receiving, it's coming from Canadians, correct?

10:39AM 19 A. Yes, sir.

10:39AM 20 Q. It's coming via New York City, correct?

10:39AM 21 A. As far as I knew, yes.

10:39AM 22 Q. Okay. And then, you told us there were three packages

10:39AM 23 you unloaded for him, correct?

10:39AM 24 A. Yes.

10:39AM 25 Q. Now, if you started in 2014 or so, and Mr. Serio gets

25 Q. And I think you told us you'd make about 500 to \$1,000

10:40AM 1 per 5 pounds, per time?

10:40AM 2 A. Yes.

10:40AM 3 Q. Okay. So, is that fair to say, then, that in the span of

10:40AM 4 your taking these 5-pound loads, you made 3- to \$4,000?

10:40AM 5 A. Yes.

10:40AM 6 Q. Okay. And that's over how long a period of time?

10:41AM 7 A. I'd say six months.

10:41AM 8 Q. Okay. And, again, is this closer to 2014 or closer to

10:41AM 9 2017?

10:41AM 10 A. Right in the middle.

10:41AM 11 Q. Okay. All right. Now, you told us that there comes a

10:41AM 12 point in time where you talk to Mr. Serio about protection of

10:41AM 13 the organization, correct?

10:41AM 14 A. Yes.

10:41AM 15 Q. Okay. And Mr. Serio relates some information to you

10:41AM 16 about what he's doing to secure the operation, correct?

10:41AM 17 A. Yes, sir.

10:41AM 18 Q. Okay. And he tells you that he pays Mike Masecchia, who

10:41AM 19 then pays Joe Bongiovanni; is that your understanding?

10:41AM 20 A. Yes, sir.

10:41AM 21 Q. Now, and then in return, Mr. Serio gets information back

10:41AM 22 on the other end, correct?

10:41AM 23 A. Yes.

10:41AM 24 Q. Okay. Both on who to stay away from, correct?

10:41AM 25 A. Yes, sir.

1 Q. And on who's being investigated, correct?

2 A. Yes.

3 Q. Now, do you recall Mr. Serio also explaining to you that
4 the money didn't just go directly from Mike Masecchia to Joe
5 Bongiovanni, correct?

6 A. He didn't tell me any --

7 Q. Let me reword the question.

8 **MR. TRIPI:** Objection. Let him answer the question.

9 **MR. MacKAY:** I'm going to withdraw the question and
10 ask it a different way.

11 **THE COURT:** Go ahead.

12 **BY MR. MacKAY:**

13 Q. Do you recall Mr. Serio, in that same conversation,
14 asking or telling you that he would also pay Mike Masecchia,
15 who would pay Lou Selva, who would pay Joe Bongiovanni?

16 **MR. TRIPI:** Objection. My objection is, he didn't
17 let him answer the question, and then he assumed a fact in the
18 next question.

19 **THE COURT:** He's withdrawn the prior question.
20 Overruled.

21 **BY MR. MacKAY:**

22 Q. Do you need me to repeat that?

23 A. Negative.

24 Ron said -- all I know is Ron told me that he would pay
25 Mike Masecchia, to pay Joseph Bongiovanni. He didn't say

1 anything about Lou Selva.

2 Q. Okay. Do you recall telling HSI on October 28, 2019,

3 when you met with them, that one of the ways would be that

4 Ron Serio paid Mike Masecchia, who paid Lou Selva, who paid

5 Joseph Bongiovanni? Do you recall telling Homeland Security

6 on that date?

7 A. I do not recall.

8 Q. Okay. Help refresh your recollection if I show you

9 something?

10 A. Yeah, that's fine.

11 **MR. MacKAY:** Ms. Champoux, can we show the witness

12 only Government Exhibit 3541B-1, it's going to be page 7.

13 **BY MR. MacKAY:**

14 Q. All right. So Mr. Falzone, I'm going to direct you to

15 the eighth bullet point down. If you would take a look at

16 that and see if that refreshes your recollection what you

17 told Homeland Security?

18 A. Okay.

19 Q. Just look back up at me.

20 **MR. MacKAY:** Can we take that down, Ms. Champoux?

21 **BY MR. MacKAY:**

22 Q. Do you recall now telling that to Homeland Security back

23 in October of 2019?

24 A. I do.

25 Q. Okay. Just so we're clear, Ron Serio told you two

10:44AM 1 things: One, is that he pays Mike Masecchia, who pays Joe
10:44AM 2 Bongiovanni, correct?

10:44AM 3 A. Yes.

10:44AM 4 Q. And another way is he pays Mike Masecchia, who pays Lou
10:44AM 5 Selva, who pays Joe Bongiovanni, correct?

10:44AM 6 A. Yes.

10:44AM 7 Q. Okay. So you understood that there were actually two
10:44AM 8 routes that money was going to Joe Bongiovanni from that
10:44AM 9 conversation, correct?

10:44AM 10 A. Yes.

10:44AM 11 Q. Okay. Now, you were skeptical when you heard this plan
10:44AM 12 the first time, correct?

10:44AM 13 A. I was.

10:44AM 14 Q. And why is that?

10:44AM 15 A. 'Cuz I didn't trust any of them guys.

10:45AM 16 Q. Okay. Fair to say you thought it was -- you were
10:45AM 17 skeptical why a DEA agent -- DEA agent would risk his job to
10:45AM 18 protect Mr. Serio and Mr. Masecchia?

10:45AM 19 A. Yes.

10:45AM 20 Q. Okay. Now, later, you formed a belief on what may have
10:45AM 21 happened with the money, correct?

10:45AM 22 **MR. TRIPI:** Objection. Formed a belief, what may
10:45AM 23 have happened? It's speculative.

10:45AM 24 **THE COURT:** Overruled. Overruled. Overruled.

10:45AM 25 You can answer the question.

1 A. I would hear things that would go on in the neighborhood.

2 Q. Did you come to learn about an incident involving Mike

3 Masecchia and an individual name Sal Albert?

4 A. Yes, I did.

5 **MR. TRIPI:** Objection. We're into hearsay now.

6 **THE COURT:** We don't know yet. Next question.

7 **BY MR. MacKAY:**

8 Q. Okay. Did your understanding of any incident between --

9 with Mike Masecchia and Sal Albert inform your belief about

10 this opinion you testified?

11 **MR. TRIPI:** Objection. Any -- same objection they

12 had earlier, any opinion would be based on hearsay,

13 Your Honor.

14 **THE COURT:** Yeah, sustained. Sustained.

15 **BY MR. MacKAY:**

16 Q. Okay. All right. Let me move on to Lou Selva. You

17 talked about Mike Masecchia.

18 Well, let me go back. Let's talk about Mike Masecchia a

19 bit. You said -- how long have you known him?

20 A. That was my oldest brother's best friend from when they

21 were kids.

22 Q. So how long does that take you back to knowing

23 Mr. Masecchia for?

24 A. Since I was four or five years old.

25 Q. Is he your age, older, younger?

10:47AM 1 A. He is older.

10:47AM 2 Q. Intimidating guy, correct?

10:47AM 3 A. Correct.

10:47AM 4 Q. Physically intimidating?

10:47AM 5 A. Yes.

10:47AM 6 Q. He's large, correct?

10:47AM 7 A. Correct.

10:47AM 8 Q. He's physically bulky built?

10:47AM 9 A. Correct.

10:47AM 10 Q. Does he exhibit -- do you know him to exhibit anger

10:47AM 11 frequently? Does he get angry?

10:47AM 12 A. No, but I've heard stories.

10:47AM 13 Q. Did you know him to use steroids?

10:48AM 14 A. Yes.

10:48AM 15 Q. Did you know him to have some reputation pertaining to

10:48AM 16 Italian Organized Crime?

10:48AM 17 A. Negative.

10:48AM 18 Q. Okay. Did you ever see -- did you know him to carry a

10:48AM 19 shiny chrome pistol?

10:48AM 20 A. Yes.

10:48AM 21 Q. And just to be clear, you don't like Mike Masecchia,

10:48AM 22 correct?

10:48AM 23 A. I never said I didn't like Mike at all.

10:48AM 24 Q. Okay. Do you believe him to be a bully?

10:48AM 25 A. Yes, I do.

10:48AM 1 Q. You -- is it fair to say that when he would come around
10:48AM 2 with Ron Serio or places you would be, you would try to
10:48AM 3 leave?
10:48AM 4 A. Pretty much.
10:48AM 5 Q. Is it because -- would you leave because of the things
10:48AM 6 you just told us about what you knew about Mike Masecchia?
10:48AM 7 A. Basically.
10:48AM 8 Q. Now, there comes a point in time where -- I think you
10:48AM 9 told us it's the first load that's being unloaded at your
10:48AM 10 house at 377 Englewood?
10:48AM 11 A. Yes, sir.
10:48AM 12 Q. And you said Mike Masecchia was not there, but that he
10:49AM 13 got there to help with the load, correct?
10:49AM 14 A. Yes.
10:49AM 15 Q. Okay. And, ultimately, he leaves the scene because of
10:49AM 16 something to do with Remus Nowak, correct?
10:49AM 17 A. Correct.
10:49AM 18 Q. Was Remus Nowak currently living next to you at that
10:49AM 19 point in time?
10:49AM 20 A. From what Mike said.
10:49AM 21 Q. Okay. I mean, based on this interaction and what
10:49AM 22 Mr. Masecchia does in leaving the scene, did you understand
10:49AM 23 Mr. Masecchia and Mr. Nowak to know each other in some
10:49AM 24 fashion?
10:49AM 25 A. Yes.

10:49AM 1 Q. But it sounds like the connection with them was not good
10:49AM 2 in some fashion?
10:49AM 3 A. That was the gist of it, that's how I took it.
10:49AM 4 Q. Okay. He didn't want to be around him though, correct?
10:49AM 5 A. Correct.
10:49AM 6 Q. But, from what you could tell, he knew who he was --
10:49AM 7 A. Yes.
10:49AM 8 Q. -- when coming to your house?
10:49AM 9 A. Yes.
10:49AM 10 Q. Okay. Now, let's jump back for a second to Mr. Selva.
10:50AM 11 You expressed an opinion about him, do you recall that?
10:50AM 12 A. Excuse me?
10:50AM 13 Q. Mr. Selva, Lou Selva?
10:50AM 14 A. Yes.
10:50AM 15 Q. You expressed an opinion about him. How long have you
10:50AM 16 known Mr. Selva?
10:50AM 17 A. A very long time.
10:50AM 18 Q. Okay. In what capacity did you first meet him?
10:50AM 19 A. Just around the neighborhood, he was another friend of my
10:50AM 20 brother's.
10:50AM 21 Q. And you described him as a thief earlier, correct?
10:50AM 22 A. I wouldn't say consider Lou a thief as much as Mike.
10:50AM 23 Q. Okay.
10:50AM 24 A. I never -- I've never heard stories of Lou being a thief.
10:50AM 25 Q. Now, well -- strike that. Once you get involved with

1 Mr. Serio around 2014, did you -- from that point until the
2 time Mr. Serio's arrested in 2017, did you see Mr. Selva in
3 contact with Mr. Serio at all?

4 A. Negative.

5 Q. So as you sit here today, you don't recall Mr. Selva
6 ever, like, physically being present around Mr. Serio,
7 correct?

8 A. Correct.

9 Q. But do you remember Mr. Masecchia being around?

10 A. Yes.

11 Q. And did you believe Mr. Masecchia to be Mr. Serio's
12 muscle?

13 A. I think he thought that.

14 Q. Who thought that?

15 A. Mike.

16 Q. Okay. You think Mike thought that he was Ron Serio's
17 muscle?

18 A. Yes.

19 **MR. TRIPI:** Objection. You think he thought. We've
20 got two layers of --

21 **THE COURT:** He was trying to clarify -- he was trying
22 to clarify what he said. Are you objecting to the use of
23 "he?"

24 **MR. TRIPI:** I'm objecting to two layers of
25 speculation.

10:51AM 1 **THE COURT:** Well, no, because he's just trying to
10:51AM 2 clarify what the witness said, so that's overruled.

10:51AM 3 **BY MR. MacKAY:**

10:51AM 4 Q. Do you understand what my question was?

10:51AM 5 A. Yes.

10:51AM 6 Q. Which person thought which person was whose muscle? Does
10:51AM 7 that make sense?

10:51AM 8 A. I guess Mike thought that he was Ron's muscle.

10:51AM 9 Maybe Ron thought Mike was his muscle.

10:51AM 10 I really don't know.

10:52AM 11 Q. Did you see Mr. Serio express admiration of
10:52AM 12 Mr. Masecchia?

10:52AM 13 A. Admiration pertaining to -- just, like, look up to him?

10:52AM 14 Q. Yeah. Yeah. That's a way to say it. Did you think that
10:52AM 15 Mr. Serio looked up to Mr. Masecchia in some fashion?

10:52AM 16 A. Sure. Why not?

10:52AM 17 Q. Well, I don't know. You --

10:52AM 18 A. I don't know what you're getting at, that's what I'm
10:52AM 19 trying to understand.

10:52AM 20 Q. I'm trying to --

10:52AM 21 **THE COURT:** Don't worry about what he's getting at,
10:52AM 22 just answer the question.

10:52AM 23 **THE WITNESS:** I don't know.

10:52AM 24 **BY MR. MacKAY:**

10:52AM 25 Q. I'm trying to explain here the relationship between

10:52AM 1 Masecchia and Serio.

10:52AM 2 A. They were close.

10:52AM 3 Q. They were close? When they were close, do you think that

10:52AM 4 they acted as equals to one another? Do you know what I'm

10:52AM 5 saying?

10:52AM 6 A. I -- I think Mike thinks that he's over everybody.

10:52AM 7 Q. Okay. Did you -- did you see Mr. Masecchia behave in

10:52AM 8 ways that showed he was controlling or demonstrated he was

10:53AM 9 controlling Mr. Serio in some fashion?

10:53AM 10 A. Not really.

10:53AM 11 Q. Did you see it the other way around? Did you see

10:53AM 12 Mr. Serio take actions that suggested he was controlling

10:53AM 13 Mr. Masecchia?

10:53AM 14 A. Negative. I think they both needed each other, to be

10:53AM 15 honest with you.

10:53AM 16 Q. Now, again, I'm gonna -- we got a little bit off track.

10:53AM 17 We talked about Lou Selva. You said you never saw him around

10:53AM 18 Mr. Serio, correct?

10:53AM 19 A. Correct.

10:53AM 20 Q. Were you separately in contact with Mr. Selva during the

10:53AM 21 same time period of 2014 to 2017?

10:53AM 22 A. Was I in --

10:53AM 23 Q. Did you have contact with Mr. Selva separately around

10:53AM 24 that time?

10:53AM 25 A. I don't know, maybe.

1 Q. Okay. I mean, I want to be very clear what we're talking
2 about. 2014, when you get reinvolved with Mr. Masecchia
3 until the time period of April 2017 when Ron Serio's
4 arrested.

5 A. Did I talk to Lou Selva anywhere in that time?

6 Q. Yes.

7 A. I'm sure I did.

8 Q. Okay. But you never saw him around some of these folks
9 that you've mentioned before as being close to Mr. Serio?

10 **MR. TRIPI:** Objection as to specificity. Some of
11 these folks, it's very vague.

12 **THE COURT:** Yeah, agree. Sustained.

13 **BY MR. MacKAY:**

14 Q. Do you recall going through a list of people? Mike
15 Moynihan; do you remember that?

16 A. Yes.

17 Q. Mike Buttita, correct?

18 A. Yes.

19 Q. You remember Chris Baker, correct?

20 A. Yes.

21 Q. So of those folks, you testified that they were all sort
22 of around Mr. Serio, correct?

23 A. Yes.

24 Q. Okay. Do you recall seeing Mr. Selva around any of those
25 folks that you mentioned?

10:54AM 1 A. No.

10:54AM 2 Q. Okay. Did you ever have any discussions with Mr. Selva
10:54AM 3 about this supposed protection that was running between Serio
10:54AM 4 and Bongiovanni?

10:54AM 5 A. No, I never had a discussion about it.

10:54AM 6 Q. So, Mr. Selva never told you anything to the effect of --
10:54AM 7 that this sort of scheme was in place, correct?

10:55AM 8 A. Correct.

10:55AM 9 Q. He never confirmed it, correct?

10:55AM 10 A. Correct.

10:55AM 11 Q. He never confirmed it before Mr. Serio was arrested,
10:55AM 12 correct?

10:55AM 13 A. Correct.

10:55AM 14 Q. And he never confirmed it after Mr. Serio was arrested,
10:55AM 15 correct?

10:55AM 16 A. Correct.

10:55AM 17 Q. Okay. And as a matter of fact, you did have some
10:55AM 18 discussions with Mr. Serio at some -- I'm sorry, with
10:55AM 19 Mr. Selva at some point in time after Ron's arrested,
10:55AM 20 correct?

10:55AM 21 A. I'm sure I did.

10:55AM 22 Q. Okay. Well, isn't it true that you told him your theory
10:55AM 23 about how Masecchia -- you thought Masecchia stole the money?

10:55AM 24 **MR. TRIPI:** Objection. Hearsay. Asked and answered.
10:55AM 25 It's being offered for its truth, and it's a theory.

10:55AM 1 **THE COURT:** No, overruled.

10:55AM 2 **BY MR. MacKAY:**

10:55AM 3 Q. Do you recall having a conversation on that subject with
10:55AM 4 Mr. Selva?

10:55AM 5 A. Yes.

10:55AM 6 Q. Do you recall him being surprised when you said that?

10:56AM 7 A. Yes.

10:56AM 8 Q. Do you recall what Mr. Selva's reaction to that
10:56AM 9 conversation was?

10:56AM 10 A. He looked -- he turned red as an apple.

10:56AM 11 Q. Okay. He turned red?

10:56AM 12 A. Yes.

10:56AM 13 Q. What did you take that to mean?

10:56AM 14 A. Like, I took it to be, like, oh, shit, how did he know?
10:56AM 15 How did I know?

10:56AM 16 Q. Okay. Let's talk a little bit about Mario Vacanti.

10:56AM 17 You knew Mario Vacanti as somebody who would occasionally
10:56AM 18 come around Mr. Serio, correct?

10:56AM 19 A. Yes.

10:56AM 20 Q. I think you testified you saw an occasion where
10:56AM 21 Mr. Vacanti picked up marijuana from Mr. Serio, correct?

10:56AM 22 A. Yes.

10:56AM 23 Q. Did you know him to frequently be around Mr. Serio
10:57AM 24 though?

10:57AM 25 A. Yes.

10:57AM 1 Q. Because you were there at the house and saw it?

10:57AM 2 A. Yes.

10:57AM 3 Q. Okay. But you would generally keep away from

10:57AM 4 Mr. Vacanti, correct?

10:57AM 5 A. Correct.

10:57AM 6 Q. You didn't really like him, correct?

10:57AM 7 A. Correct.

10:57AM 8 Q. Okay. And does that come -- does that -- is that

10:57AM 9 basis -- let me reword that.

10:57AM 10 Is that feeling based on things you've known about some
10:57AM 11 of his family's background?

10:57AM 12 A. No, I just never trusted the kid.

10:57AM 13 Q. Okay.

10:57AM 14 A. Intuition.

10:57AM 15 Q. Okay. And then I think you told us on direct, one of the
10:57AM 16 things that Mr. Serio communicated to you, well, remember you
10:57AM 17 talked on direct about Mario Vacanti and a phone call?

10:57AM 18 A. Excuse me?

10:57AM 19 Q. Do you remember talking on direct about being present for
10:57AM 20 some sort of phone call regarding Mario Vacanti?

10:57AM 21 A. Yes.

10:57AM 22 Q. Okay. So, where did that phone call occur?

10:58AM 23 A. That occurred at Ron's house on Lebrun.

10:58AM 24 Q. And so Ron's on the phone with who?

10:58AM 25 A. Mike Masecchia.

10:58AM 1 Q. How do you know it to be Mike Masecchia?

10:58AM 2 A. Because he told me.

10:58AM 3 Q. Okay. And -- and it's as part of that conversation, that

10:58AM 4 you understood that Mr. Vacanti's name was coming up?

10:58AM 5 A. When it came up, it was -- it came up as the kid -- from

10:58AM 6 what Mike told Ron, and Ron told me, was that the kid named

10:58AM 7 Mario, and they used Mario's mother's maiden name, that was

10:58AM 8 living in Tom's Serio's carriage house, was being

10:58AM 9 investigated by the DEA. And we all knew that it was Mario

10:58AM 10 Vacanti, because Ron knew his mother's maiden name.

10:58AM 11 Q. Well, and Ron and Tom Serio live in close proximity to

10:58AM 12 each other, too, correct?

10:59AM 13 A. Yes.

10:59AM 14 Q. They're on the same street, correct?

10:59AM 15 A. Yes, sir.

10:59AM 16 Q. Now can you pinpoint, was this -- did this phone call

10:59AM 17 occur closer to 2017?

10:59AM 18 A. I can't recall. Maybe somewhere in there, I really don't

10:59AM 19 remember. It was towards the end.

10:59AM 20 Q. It was towards the end. That's what I'm focusing on.

10:59AM 21 A. Yes, towards the end.

10:59AM 22 Q. So that would mean it's closer to April of 2017?

10:59AM 23 A. Yes.

10:59AM 24 Q. Okay. Now -- now, as part of that, did Mr. Serio cease

10:59AM 25 dealing with Mario Vacanti in any fashion?

10:59AM 1 A. Yes.

10:59AM 2 Q. Okay. How so?

10:59AM 3 A. Mario, he found out Mario was having an affair with his
10:59AM 4 wife.

10:59AM 5 Q. That's what I'm getting to. So separately and apart, you
10:59AM 6 learned that Mario Vacanti is having an affair with Lauren
10:59AM 7 Serio, correct?

10:59AM 8 A. Correct.

10:59AM 9 Q. And ultimately, did you come to learn that Mario Vacanti
10:59AM 10 and the former Mrs. Serio got married?

10:59AM 11 A. Yeah. I know that now.

11:00AM 12 Q. Okay. But is it your understanding that what drove them
11:00AM 13 apart was the dynamic of an affair?

11:00AM 14 A. Yes.

11:00AM 15 Q. Okay.

11:00AM 16 **THE COURT:** Mr. MacKay, how much more do you think
11:00AM 17 you have?

11:00AM 18 **MR. MacKAY:** I just want to check with my client and
11:00AM 19 cocounsel, this might be a good time for a break.

11:00AM 20 **THE COURT:** Do you want to break now?

11:00AM 21 **MR. MacKAY:** Yes, Judge.

11:00AM 22 **THE COURT:** Just so you folks know, we're going to go
11:00AM 23 until probably just about 12:30, and we're going to break
11:00AM 24 until about a quarter to 2.

11:00AM 25 So remember my instructions about not talking with

1 each other, and not making up your mind.

2 And we'll see you back here in about ten or 15
3 minutes. Thanks.

4 (Jury excused at 11:00 a.m.)

5 **THE COURT:** Okay, anything we need to put on the
6 record before we break?

7 **MR. TRIPI:** No, Your Honor.

8 **MR. MacKAY:** No, Your Honor.

9 **THE COURT:** Mr. Singer, I know you have a meeting
10 with Chief Judge Welford at 12:30.

11 **MR. SINGER:** Yes, Judge.

12 **THE COURT:** And I have a meeting with her right
13 afterwards. So we'll break a few minutes before 12:30, and if
14 you're a few minutes late, it's not going to be a problem.

15 **MR. SINGER:** She's not going to hold it against me?

16 **THE COURT:** No, I know she won't.

17 **MR. TRIPI:** She'll hold it against you, Judge?

18 **THE COURT:** She'll hold it against me, that's right.
19 Okay. Thanks, everybody.

20 **THE CLERK:** All rise.

21 (Off the record at 11:01 a.m.)

22 (Back on the record at 11:19 a.m.)

23 (Jury not present.)

24 **THE CLERK:** All rise.

25 **THE COURT:** Please be seated.

1 **THE CLERK:** We are back on the record for the
2 continuation of the jury trial in case number 19-cr-227,
3 United States of America versus Joseph Bongiovanni.

4 All counsel and parties are present.

5 **THE COURT:** Okay. Are we ready to resume?

6 **MR. MacKAY:** We are, Your Honor.

7 **MR. TRIPI:** Yes, Your Honor.

8 **THE COURT:** Okay. Let's bring them back in, please,
9 Pat.

10 (Jury seated at 11:22 a.m.)

11 **THE COURT:** The record will reflect that all our.
12 Jurors again are present.

13 I remind the witness that he's still under oath.

14 And you may continue, Mr. MacKay.

15 **MR. MacKAY:** I have no further questions, Your Honor.

16 **THE COURT:** Okay. Redirect?

17 **MR. TRIPI:** Thank you, Your Honor.

18 (Redirect examination from 11:22 a.m. to 11:36 a.m.)

19 **THE COURT:** Okay. Anything more, Mr. MacKay?

20 **MR. MacKAY:** No, Your Honor.

21 **THE COURT:** You can step down, sir. Thank you.

22 **THE WITNESS:** Thank you.

23 (Witness excused at 11:36 a.m.)

24 (Excerpt concluded at 11:36 a.m.)

25 * * * * * * *

CERTIFICATE OF REPORTER

In accordance with 28, U.S.C., 753(b), I
certify that these original notes are a true and correct
record of proceedings in the United States District Court for
the Western District of New York on March 5, 2024.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR

Official Court Reporter

U.S.D.C., W.D.N.Y.